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Executive summary

Note by the Secretariat

Addendum

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II. Executive summary

Mozambique

1. Introduction: overview of the legal and institutional framework of Mozambique in the context of implementation of the United Nations Convention against Corruption

Mozambique signed the Convention against Corruption on 25 May 2004 and ratified it on 9 April 2008.

The Convention is an integral part of national law in Mozambique and has the status of ordinary law since its ratification by the parliament (art. 18, Constitution). The legal system is based on Portuguese civil law and customary law.

Mozambique was reviewed during the second year of the first cycle of the Implementation Review Mechanism [CAC/COSP/IRG/I/2/1/Add.34].

The most important institutions in the fight against corruption are the Central Office for the Fight against Corruption (Portuguese abbreviation: GCCC) within the Office of the Attorney General, the Central Ethics Commission, the Financial Intelligence Unit of Mozambique (GIFiM), the Ministry of State Administration and Public Service and the Bank of Mozambique.

Mozambique has enacted numerous laws to prevent and fight corruption, including the Law on the Central Office for the Fight against Corruption, the Law on Public Probity, the Law on Preventing and Combating Money-Laundering and Terrorist Financing and the Law establishing the Financial Intelligence Unit.

2. Chapter II: preventive measures

2.1. Observations on the implementation of the articles under review

Preventive anti-corruption policies and practices; preventive anti-corruption body or bodies (arts. 5 and 6)

In 2012, Mozambique adopted the Public Administration Development and Reform Strategy, which is aimed at enhancing professionalism, integrity and accountability in public administration. The Strategy is operationalized through five-year action plans reflected in concrete sectoral and provincial plans. To date, it has resulted in the adoption of several concrete anti-corruption measures, including new laws and the creation of the Central Ethics Commission and sectoral public ethics commissions. However, the Strategy only focuses on the public sector, and private sector corruption is left uncovered. Ministry of State Administration and Public Service and the Inter-Ministerial Commission for Public Service Reform are responsible for overseeing the implementation of the Strategy and preparing yearly progress reports.

The Central Office for the Fight against Corruption is the main preventive anti-corruption body. It carries out various prevention activities, including school initiatives in partnership with the Ministry of Education, awareness-raising materials and training. The Central Office has entered into agreements with several public and private institutions. Although the Central Office coordinates national corruption prevention work (art. 80, Organic Law on the Office of the Attorney General), its practical role in the implementation of the Strategy is unclear.

The Central Office is a specialized organ of the Office of the Attorney General (arts. 78 and 79, Organic Law), enjoying functional autonomy and its own budget. While the operational autonomy of the Office of the Attorney General is established (art. 234, Constitution; arts. 2 and 3, Organic Law), no legal basis exists ensuring specifically the independence of Central Office. The Deputy Attorney General acts as the director of the Central Office. The Attorney General appoints and removes the director (art. 81, Organic Law). Central Office staff (such as investigators, accountants, auditors, prosecutors) are seconded from various public bodies. The

Office of the Attorney General oversees the secondment process but the procedure appears to vary and is unclear.

Public bodies are subject to periodic inspections by the Ministry of Finance and the Administrative Court. Any corruption-related findings are sent to the Central Office for follow-up.

The National Directorate for Legal and Constitutional Affairs of the Ministry of Justice is responsible for overseeing the evaluation and reform of legal instruments.

Two national surveys were carried out (2005, 2010) to evaluate citizens' satisfaction with public services. In addition, two studies on the level of corruption were developed by the Interministerial Commission for the Reform of the Public Sector (2004, 2010–2011) and two national conferences on corruption were organized (2013, 2015), bringing together government representatives, civil society and academia.

Mozambique participates in various international anti-corruption initiatives and forums, including the Southern African Development Community (SADC) Anti-Corruption Committee, the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) and the Commonwealth Africa Anti-Corruption Centre. The Central Office has entered into agreements with counterparts from several Portuguese-speaking and neighbouring countries.

Mozambique was reminded of its obligation to inform the Secretary-General of the United Nations of the name and address of the prevention authority under article 6 (3).

Public sector; codes of conduct for public officials; measures relating to the judiciary and prosecution services (arts. 7, 8 and 11)

The General Statute of Officials and State Agents and its corresponding decree regulate the recruitment, retention, promotion and retirement of public officials. Ministerial decree 61/2000 regulates in detail the recruitment process, including the publication of vacancy notices, the composition of juries and selection procedures. Public bodies are responsible for their own recruitment process through established human resources departments. Recruitment-related complaints may be lodged with the jury, the hiring entity or the Administrative Court. Decree 54/2009 on the Careers and Compensation System includes the rules for promotion and remuneration. Remuneration considers public employees' career, category or function and consists of salaries and allowances (art. 48, General Statute).

There is an established practice of rotation for public officials occupying posts prone to corruption, as identified in the second national corruption survey (e.g. tax authorities, traffic police, customs officers).

Training of public officials on anti-corruption is provided primarily by the Ministry of State Administration and Public Service, but also by the Central Office and by several sectoral training institutions.

Criteria concerning candidature for and election to public office are set out in the Law on the Election of the President and Members of Parliament, the Law on the Election of the President of Municipal Councils, the Law on the Election of Members of Provincial Assemblies, the Law on the Ombudsman and the General Statute. Elected public officials are subject to mandatory asset declarations (art. 58, Law on Public Probity).

Although some relevant provisions exist in the Law on the Election of the President and Members of Parliament, Mozambique has identified the need to adopt a new law to comprehensively address election financing matters and introduce transparency.

The Law on Public Probity effectively serves as a code of conduct and establishes duties and ethical standards for public officials and regulates, among others, asset declarations, conflict of interest, gifts, secondary activities and employment. However, there is no information whether the relevant initiatives of regional, interregional or multilateral organizations were considered in developing the Law on Public Probity.

Yearly asset declarations are compulsory for public officials listed in article 58 and concern assets within or outside of Mozambique and of family members (arts. 20, 57–59 and 62). The Office of the Attorney General, through its reception and verification commissions, has depository and supervisory functions (arts. 61–63). The prosecutors, however, file their declarations with the Administrative Court (art. 61, para. 2). Anyone with justified interest can access the declarations but further dissemination or publication is prohibited (arts. 66–69).

Public officials cannot engage in outside activities that could lead to conflict of interest (art. 25, Law on Public Probity, arts. 7 and 8, General Statute). A cooling-off period of two years can be imposed when leaving public office (arts. 45 and 46, Law on Public Probity).

Gifts of a certain value (art. 41, para. 2, Law on Public Probity) are acceptable; however, zero tolerance applies if the gifts come from persons with interest in public officials' decisions and are not courtesy or special occasions gifts (arts. 26 and 40–42). If in doubt as to the permissibility, public officials must consult with their public ethics commission or, in its absence, superiors (art. 41).

Public officials have an obligation to self-identify potential conflicts of interest (as defined in arts. 19, 25, 35 and 36) and inform their respective public ethics commission or superiors (arts. 36 and 48).

Violations constitute disciplinary offences punishable by a fine or dismissal (arts. 70–88, Law on Public Probity, arts. 78–114, General Statute). Public bodies have their own disciplinary mechanisms and impose sanctions. Furthermore, public ethics commissions are responsible for identifying cases of conflict of interest and may recommend relevant bodies to apply disciplinary measures. The work of public ethics commissions is overseen by the Central Ethics Commission who transmits cases of breach to the Central Office for further consideration (art. 55, Law on Public Probity).

Public officials have a duty to report illegal acts, including corruption, to their superiors (art. 39, General Statute). Non-compliance constitutes a disciplinary offence (art. 86, General Statute). In addition, anyone can report corruption to the Central Office, including anonymously (arts. 12 and 13, Law on the Central Office). Protection for reporting persons is regulated by law (art. 13, Law on the Central Office and Law 15/2012).

The independence of the judiciary is guaranteed (art. 217, Constitution). The Judges Statute lists judges' duties and contains, among others, provisions on the appointment and disciplinary proceedings (art. 4). The High Council of the Judiciary is the main self-management and disciplinary body (arts. 220–222 Constitution). The Judicial Inspection body conducts regular inspections in courts and deals with complaints as to judges' performance.

Autonomy of the prosecution service is established (arts. 2 and 3, Organic Law). The Office of the Attorney General Statute lists rights, duties and ethical standards for prosecutors. A dedicated code of ethics for prosecutors is being drafted. The High Council of Public Prosecutors is the main managerial and disciplinary body.

Judges and prosecutors are subject to compulsory asset declarations. Training to judges and prosecutors on integrity is provided on an ad hoc basis.

Public procurement and management of public finances (art. 9)

Decree 5/2016 establishes the legal regime applicable to all public procurement. Mozambique applies a decentralized system where each contracting authority designates its own responsible acquisition management unit. The functional supervision unit of acquisitions of the Ministry of Finance is responsible for providing inspection, technical support and training to acquisition management units and preparing procurement guidelines and manuals. The decree regulates the different procurement methods (arts. 6–8), the invitation to tenders (arts. 32 and 33),

requirements for participants (arts. 21–26) and the submission and evaluation of proposals (arts. 51–60). While the general method is public tender, special methods may be applied for procurement relating to international agreements and certain categories of work and services, including of lower value (arts. 6–8). Complaints can be addressed to the contracting authority's acquisition management unit, and further appeals can be lodged with the functional supervision unit of acquisitions or the administrative courts (arts. 275–276). The unit provides training to procurement officers (art. 19).

The electronic system of financial administration of the State (e-SISTAFE) regulates all processes relating to the management of public funds. The Law on the System of Financial Administration of the State regulates the system of accounting and auditing standards (arts. 36–63) and requires public bodies to keep records and report on all revenues and expenditures (arts. 14 and 15). The Law establishes the internal control subsystem to supervise the use of public resources and monitor the implementation of the rules (arts. 62–64). The Administrative Court is responsible for supervising public revenues and expenditures (art. 4, decree 24/2003). All public financial records are stored at the Ministry of Finance. Public bodies may be subject to independent audits ordered by the Ministry of Finance. Non-compliance with the Law is subject to financial, disciplinary, criminal and civil liability (art. 66; arts. 517 and 518, Penal Code). At the end of each fiscal year, the government prepares balance sheets, budget control charts and income statements.

The procedures and competencies for the elaboration and adoption of the national budget provided (arts. 130 and 131, Constitution; arts. 12-26, Law on the System of Financial Administration of the State).

Public reporting; participation of society (arts. 10 and 13)

Access to information is governed by the Law on the Right to Information. Requests can be submitted by anyone (arts. 3–6) and in any form (arts. 6–9) and must follow the requirements listed in the Law (art. 8). Denial of access can be challenged through an administrative or judicial appeal (arts. 16–18).

So-called single service counters exist throughout the country to provide one-stop access to various licences and certificates. Public bodies maintain their own websites and prepare what are known as service letters to succinctly present to citizens their work and services. The Law has also established a body responsible for the management of national archives. The Office of the Attorney General presents its annual reports to the parliament, with one chapter dedicated to anti-corruption activities of the Central Office for the Fight against Corruption.

There is a practice of conducting consultations with civil society and the private sector during the drafting process of laws and regulations (in line with art. 124, Rules of Procedure of the parliament and arts. 113–116, Law on Public Administration).

The Central Office conducts a range of public information activities, including television and radio advertisements, campaigns, lectures and education programmes. An anonymous reporting hotline is in place.

Private sector (art. 12)

Corruption in the private sector is criminalized (arts. 502 and 503, Penal Code). In 2006 and 2009, the country adopted a General Accounting Plan and an Accounting System establishing standards for companies. The following laws are relevant in the area of company registration, bookkeeping and accounting and set out sanctions for non-compliance: Labour Law; Commercial Code (in particular arts. 42–46, which oblige businesses to keep records and inventory); Business Registration Code (in particular arts. 1–3 on the public commercial register); and Law on the Tax System (in particular arts. 23–30, which provide for sanctions for false or incomplete accounting and bookkeeping and non-submission of requested declarations to tax offices).

No specific mechanism is in place for reporting corruption in the private sector; however, corruption allegations can be reported directly to the Central Office for the Fight against Corruption and some companies have established toll-free "green lines" to receive complaints and channel them to the Central Office or other bodies.

A code of conduct exists for the Confederation of Economic Associations of Mozambique. In addition, some companies have their own codes of conduct and some larger companies have also established dedicated compliance departments.

The Central Office cooperates with the Confederation on training activities for the private sector and together with the Institute of Directors prepared the 2016 business integrity pact against corruption to give guidance to private companies. As of December 2017, the pact had been signed by 50 companies.

The Tax Authority is responsible for licensing and professional supervision of companies and private entities. The Commercial Code obliges companies to undergo regular audits by external auditors. No information has been provided on the subject of subsidies to and licensing of private entities and internal auditing controls. No information has been provided on the tax deductibility of bribes.

Measures to prevent money-laundering (art. 14)

As a member of ESAAMLG, Mozambique must implement and apply all Financial Action Task Force recommendations. Mozambique was subject to ESAAMLG mutual evaluation in 2011. The second evaluation is planned for 2019.

The Law on Money-Laundering and Terrorist Financing, and decree 66/2014, known as the anti-money-laundering regulation, contain the regulatory and supervisory regimes for banks and designated non-financial businesses and professions as exhaustively listed under article 3 of the Law. The Bank of Mozambique is the supervisory body for financial institutions, other supervisory bodies supervise specific sectors, and GIFiM is the supervisory body to all other entities (art. 27 of the Law). Bank of Mozambique has issued a Notice to help entities apply measures to prevent money-laundering.

The listed entities are required to identify their customers, including the occasional ones (art. 10 of the Law). Identification is mandatory if the transaction amount is above 450,000 meticais (approximately $736). Identification of beneficial owners is also required. While it does not appear clearly in the Law, decree 66/2014 provides for a risk-based approach by requiring creation of customer risk profiles (art. 15). Mozambique has established a financial intelligence unit, GIFiM, with powers to exchange information at the national and international level (art. 2, para. 2, Law on GIFiM). GIFiM has signed a number of memorandums of understanding, almost exclusively with regional financial intelligence units. At the time of the country visit, GIFiM was about to become a member of the Egmont Group of Financial Intelligence Units. Moreover, Mozambique has created a task force composed of the Office of the Attorney General, the Central Office for the Fight against Corruption and technicians from various ministries. The task force is chaired by GIFiM.

Mozambique regulates cross-border transfers of cash and negotiable instruments. Anyone entering or leaving its territory must declare any amount above $5,000 (art. 24, Law on Money-Laundering and Terrorist Financing). The declaration is sent to GIFiM (art. 36, anti-money-laundering regulation). However, while the anti-money-laundering regulation includes national and foreign currency, the Law on Money-Laundering and Terrorist Financing mandates declaration of foreign currency only. Financial institutions must identify and verify the identity of originators and beneficiaries of wire transfers (art. 15 of the Law; art. 24 of the regulation). However, the Law does not apply to money remitters outside financial institutions.

2.2. Successes and good practices

- A broad range of activities in schools aimed at preventing corruption, including the establishment of anti-corruption centres, the organization of contests, the

production of a children's book, efforts to include anti-corruption content into curricula, and the training of teachers (art. 5 (2) and art. 13 (1) of the Convention);

- The existence of single service counters and the development of service letters to facilitate access of citizens to public work and services (art. 10 (a) and (b));
- Mozambique has created a task force composed by the Office of the Attorney General, the Central Office for the Fight against Corruption and technicians from various ministries. The task force is chaired by GIFiM (art. 14 (1) (b)).

2.3. Challenges in implementation

It is recommended that Mozambique:

- Consider including private sector corruption in the Public Administration Development and Reform Strategy, the national anti-corruption strategy (art. 5 (1));
- Strengthen the coordination between the Central Office for the Fight against Corruption and the Ministry of State Administration and Public Service to ensure the effective implementation of the Strategy and enhance capacities and research activities of the Central Office in the areas not covered by the Strategy (art. 6 (1));
- Establish a legal basis for the independence of the Central Office, adopt clear rules on the appointment and removal of its director to introduce safeguards against arbitrary dismissal, introduce rules on the recruitment of Central Office staff, and provide sufficient resources and specialized training to staff (art. 6 (2));
- Ensure adequate selection and training procedures for public officials occupying posts prone to corruption (art. 7 (1));
- Enhance transparency in the funding of candidates for elected office and political parties, including through the adoption of a new law that would comprehensively regulate issues such as accounting obligations, public subsidies, private donations, public disclosure and expenditure limits (art. 7 (3));
- Provide clear rules and training for public officials concerning the conflict of interest system (art. 7 (4));
- Ensure the existence and effectiveness of work of public ethics commissions in all public bodies (art. 7 (4) and art. 8 (5));
- Ensure the effectiveness of the mechanism for public officials to report corruption, including through streamlining the existing processes, providing alternative confidential reporting channels, and providing guidance to public officials (art. 8 (4));
- Strengthen the asset declaration system, including through systematizing the verification process (e.g. introducing random or routine verifications), computerizing the system, raising awareness among public officials, effectively applying penalties for non-compliance, and assessing whether the current scope of the obligation covers all positions vulnerable to corruption (art. 8 (5));
- Continue ensuring that the rules on outside activities and employment are well known to public officials and enforced in practice (art. 8 (5));
- Consider introducing an obligation for public officials to declare gifts, adopting clear guidelines and lowering the current threshold for acceptable gifts (art. 8 (5));
- Effectively apply the disciplinary sanctions envisaged in the Law on Public Probity (art. 8 (6));
- Ensure that the system of domestic review in the area of public procurement is effective and capable of bringing results (art. 9 (1));

- Consider introducing clear screening procedures and training requirements for procurement personnel; and ensure the effectiveness of the system of domestic review, including through introducing the possibility to appeal a procurement decision in courts (art. 9 (1));
- With a view to successfully fighting the illicit use of public funds, strengthen e-SISTAFE by taking additional measures on transparency and accountability and effectively applying sanctions for non-compliance (art. 9 (2));
- Ensure the existence of an appropriate framework to preserve the integrity of accounting books, records, financial statements and other documents relating to public expenditure and revenue (art. 9 (3));
- Ensure the effective application of the Law on the Right to Information and give guidance to public officials and the public (art. 10 (a) and art. 13 (1));
- Consider publishing periodic reports on the risks of corruption in public administration (art. 10 (c));
- Enhance the independence of the judiciary, including through effectively applying disciplinary sanctions and promoting transparency in court processes and access to judgments; and increase training on integrity and anti-corruption (art. 11 (1));
- Strengthen the integrity of the prosecution service through adopting the envisaged code of ethics for prosecutors and increased training (art. 11 (2));
- Adopt clear auditing and accounting standards for the private sector, in particular ensure that private enterprises have sufficient internal auditing controls to assist in preventing and detecting corruption and that financial statements are subject to appropriate auditing and certification procedures, and effectively apply sanctions for non-compliance (art. 12 (1) and art. (2) (f));
- Ensure the effectiveness of the anonymous reporting hotline of the Central Office for the Fight against Corruption and so-called green lines, including by raising awareness and an effective follow-up to the complaints received (art. 12 (2) (a) and 13 (2));
- Increase transparency regarding the identity of beneficial owners (art. 12 (2) (c));
- Transparently regulate the use of subsidies and licenses for commercial activities (art. 12 (2) (d));
- Take legislative steps to prohibit the acts set out in article 12 (3), of the Convention (art. 12 (3));
- Disallow the tax deductibility of bribes (art. 12 (4));
- Continue to enhance the transparency of decision-making processes and taking legislative and practical measures to allow the public to participate (art. 13 (1));
- Consider establishing a single financial supervisory authority, or entrusting that role to the Bank of Mozambique and providing it with the necessary resources (art. 14 (1) (a));
- Insert a catch-all provision for designated non-financial businesses and professions to ensure that the regulatory and supervisory regime of the Law on Money-Laundering and Terrorist Financing is applicable to all professions exposed to the risk of money-laundering (art. 14 (1) (a));
- Consider establishing a clear risk-based approach (art. 14 (1) (a));
- Endeavour to adopt more memorandums of understanding between GIFiM and financial intelligence units outside the region and ensure that GIFiM becomes a member of the Egmont Group (art. 14 (1) (b));
- Consider requiring that the declaration of cross-border transfers is not only applicable to foreign currencies (art. 14 (2));

- Consider implementing preventive measures, including related to the identification of senders and beneficiaries, to all forms of electronic transfers, including outside financial institutions (art. 14 (3));

2.4. Technical assistance needs identified to improve implementation of the Convention

- Capacity-building (arts. 7, 8, 13 and 14);
- Institution-building (arts. 6, 13 and 14);
- Policymaking (arts. 5 and 13)

3. Chapter V: asset recovery

3.1. Observations on the implementation of the articles under review

General provision; special cooperation; bilateral and multilateral agreements and arrangements (arts. 51, 56 and 59)

Mozambique does not have extensive experience with regard to international cooperation in criminal matters and has not adopted any specific text on mutual legal assistance. At the time of the country visit, only the Law on Money-Laundering and Terrorist Financing contained provisions on international cooperation for asset recovery purposes and Mozambique has never received any request.

Mozambique has not signed any cooperation agreements related to confiscation and asset recovery.

Pursuant to article 48 of the Law on Money-Laundering and Terrorist Financing, the competent authorities of Mozambique are to provide the broadest possible cooperation to the competent authorities of other States. Article 2 (c) of the Law on GIFiM allows proactive disclosure by GIFiM to foreign financial intelligence units.

Mozambique is a party to the SADC protocol against corruption, the African Union Convention on Preventing and Combating Corruption and the Convention on Mutual Assistance in Criminal Matters between the States Members of the Community of Portuguese-speaking Countries.

Prevention and detection of transfers of proceeds of crime; financial intelligence unit (arts. 52 and 58)

The notion of beneficial owner is defined in the glossary of the Law on Money-Laundering and Terrorist Financing and in article 8 of anti-money-laundering regulation. According to notice 4/GMB/2015 of the Bank of Mozambique, which sets out guidelines on preventing and combating money-laundering and the financing of terrorism, if the institution cannot determine whether the customer is acting for a third party or not, this must be reported to GIFiM.

Politically exposed persons are defined (glossary of the Law on Money-Laundering and Terrorist Financing). Politically exposed persons at the national level are included. All entities subjected to measures to prevent money-laundering must apply enhanced customer due diligence regarding politically exposed persons (art. 10, para. 3 of the Law; art. 16 of the regulation).

The notice of the Bank of Mozambique and the anti-money-laundering regulation provide for advisories regarding conditions of enhanced scrutiny. The notice of the Bank of Mozambique, which is limited to financial institutions, explains suspicious operations in detail (chapter V, section I) and categories of risks (annex 1). It obliges all staff to follow specific training on prevention and the fight against money-laundering and terrorism financing.

In its notice, the Bank of Mozambique also requests all institutions to regularly check sanctions lists of the Security Council. Banks also use commercial screening tools.

Mozambique is currently developing a regulation on how entities should operationalize United Nations sanctions.

Records of transactions, accounts and customer due diligence must be kept for 15 years after the transactions or the closure of business (art. 17 of the Law; art. 19 of the regulation; chapter IV, sec. I, notice of the Bank of Mozambique).

Shell banks are defined (glossary of the Law). Their establishment, as well as their business relationships with banks which permit their accounts be used by shell banks is prohibited (art. 34, para. 2, of the Law; chapter III, sec. II, subsec. 3, of the notice).

Yearly asset declarations by public officials concern national and foreign assets but not an interest or right of signature in foreign countries. GIFiM can access asset declarations upon request. There are limited resources to monitor and verify disclosures, raise awareness and address non-compliance.

GIFiM has been established to receive, centralize and analyse suspicious transaction reports. In 2016, GIFiM received 536 such reports.

Measures for direct recovery of property; mechanisms for recovery of property through international cooperation in confiscation; international cooperation for purposes of confiscation (arts. 53, 54 and 55)

Natural and legal persons may initiate civil proceedings if they possess legal personality (art. 5, Civil Procedure Code), including foreign States as long as they hire a national lawyer. However, at the time of the country visit, the situation had not yet occurred.

Foreign court decisions must be validated by the national courts (arts. 225–229, Criminal Procedure Code). This provision applies in criminal matters, including confiscation (art. 1, Criminal Procedure Code). The Law on Money-Laundering and Terrorist Financing extends this procedure to money-laundering matters (art. 53). Mozambique does not allow direct enforcement of foreign confiscation orders.

Mozambique does not allow non-conviction-based confiscations, not even for purposes of mutual legal assistance.

The Law provides for the freezing and seizure of proceeds of crime in the framework of international cooperation (arts. 48 and 49). The procedure is enshrined in article 38, and a court order is not mandatory. However, seizure and freezing can only be ordered based on a request from the foreign country (art. 49).

Pursuant to articles 225 to 229 of the Criminal Procedure Code and article 53 of the Law, a foreign court order must be reviewed and confirmed before it can be enforced. The Office of the Attorney General is the central authority. At the time of the country visit, Mozambique had never received such requests.

Mozambique does not require a treaty to cooperate for confiscation purposes. Provisions of the Convention are directly applicable despite the lack of a law on mutual legal assistance. The Convention has already been used in a cooperation case with Brazil.

Mutual legal assistance is provided in accordance with national law unless an agreement exists, and *de minimis* requests are not refused (arts. 50–52). Before lifting any provisional measure, Mozambique must inform the requesting State party of its intention (art. 52, para. 5).

Mozambique has provided a copy of its Law on Money-Laundering and Terrorist Financing to the Secretariat during the country visit.

Rights of bona fide third parties are protected (art. 39 of the Law; art. 45 of the regulation).

Return and disposal of assets (art. 57)

Confiscated goods, assets or amounts of money become the property of the State (art. 99–3 of the Penal Code).

Regarding seized goods, the judge may allow them to be sold by auction to preserve their value (art. 6, decree 21/71 on judicial services). There is no provision under which the defendant could buy off his own property. At the time of the country visit, Mozambique was in the process of establishing an asset management unit.

Mozambique has the right to dispose of confiscated proceeds of money-laundering (art. 54, Law on Money-Laundering and Terrorist Financing). It may enter into agreements with other States "for capital and properties confiscated" to be "shared between them". It is unclear how the expenses associated with the return of assets are dealt with, since, at the time of the country visit, no such case had occurred yet and no agreement existed regarding asset return.

3.2. Successes and good practices

- The definition of politically exposed persons includes national politically exposed persons (art. 52 (1));
- The notice of the Bank of Mozambique obliges all staff of financial institutions to follow specific training on prevention and fight against money-laundering and terrorism financing (art. 52 (2) (a));
- Records of transactions, accounts and customer due diligence must be kept during 15 years after the operations or the closure of business (art. 52 (3));
- Mozambique has already used the Convention as the basis of mutual legal assistance granted to Brazil (art. 55 (3)).

3.3. Challenges in implementation

It is recommended that Mozambique:

- Adopt measures to extend mutual legal assistance, including on asset recovery, beyond money-laundering matters (art. 51);
- Issue advisories to all financial institutions regarding the type of natural or legal person to whose accounts they will be expected to apply enhanced scrutiny (art. 52 (2) (a));
- Adopt a regulation on how entities should implement United Nations sanctions (art. 52 (2) (a));
- Consider extending asset declaration requirements of public officials to the disclosure of an interest in or signature or other authority over a financial account in a foreign country (art. 52 (3));
- Address the recommendation under art. 8 (5) above (art. 52 (5));
- Monitor that in practice, a foreign State is able to initiate civil action in courts to establish title to or ownership of property acquired through the commission of a Convention offence, and to request compensation and damages; ensure that courts or authorities, when having to decide on confiscation, recognize another State's claim as a legitimate owner of property acquired through the commission of a Convention offence (art. 53);
- Take measures to permit its competent authorities to give effect to a confiscation order issued by a foreign court (art. 54 (1) (a) and (b));
- Consider taking measures to allow non-conviction-based confiscation in appropriate cases (art. 54 (1) (c));
- Consider taking measures to permit its competent authorities to preserve property for confiscation (art. 54 (2) (c));

- Monitor that in practice, when Mozambique receives a request from another State party for confiscation of proceeds of crime, it submits the request to its competent authorities for the purpose of obtaining a confiscation order and, if such order is granted, give effect to it (art. 55 (1));
- Endeavour to enhance direct cooperation, including proactive disclosure of information (art. 56);
- Endeavour to establish an asset management unit (art. 57);
- Extend asset return beyond money-laundering matters and monitor that when a request is made by another State party, Mozambique enables its competent authorities to return confiscated property in practice (art. 57 (2));
- Mozambique may wish to conclude agreements or mutually acceptable arrangements for the final disposal of confiscated property and consider waiving the asset sharing (art. 57 (5));
- Endeavour to adopt more memorandums of understanding between GIFiM and other national financial intelligence units outside the subregion and to ensure that GIFiM becomes a member of the Egmont Group; take measures to increase the number of suspicious transaction reports sent to GIFiM (art. 58);
- Consider signing bilateral or multilateral cooperation agreements including provisions on asset recovery (art. 59).

3.4. Technical assistance needs identified to improve implementation of the Convention

- Capacity-building (arts. 52 and 54–56);
- Institution-building (arts. 54–56);
- Legislative assistance (arts. 53–57);
- Facilitation of international cooperation with other countries (art. 54).

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